

2014

Chief FOIA Officer Report

of the Consumer Financial Protection Bureau



Consumer Financial
Protection Bureau

Message from Sartaj Alag

Chief Operating Officer of the CFPB

The Consumer Financial Protection Bureau (CFPB) was established on July 21, 2010 under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act). The CFPB consolidates most Federal consumer financial protection authority in one place. Our mission is to create an agency that helps consumer finance work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. Since the CFPB opened its doors in July 2011, it has been focused on making consumer financial markets work better for the American people, and helping them improve their financial lives.

A critical part of making financial markets work is to ensure transparency in those markets. The CFPB believes that it should hold itself to that same standard. Transparency has been at the core of the CFPB since the very beginning of the agency and we believe that it is a critical tool in helping to educate consumers. On July 4, 1966 President Lyndon B. Johnson revised Section 3 of the Administrative Procedures Act creating the FOIA. In signing this new measure, **President Johnson** stated “that the United States is an open society in which the people’s right to know is cherished and guarded.” The CFPB is not only focused on complying with this vital statute in every aspect, but creating a culture that facilitates the highest level of awareness throughout the agency and leverages technology in the processing of requests for information.

The CFPB is the 100th federal agency to be required to report to the Department of Justice under the Freedom of Information Act (FOIA). It is our pleasure to submit our first annual report and highlight our accomplishments over the past year. In submitting this report, I take pride in emphasizing our quick response time to requests and exemplifying our commitment to educating all of our employees on the components of the FOIA. For example, our FOIA 360 initiative has facilitated a high level of *Awareness* on FOIA throughout the entire agency, *Compliance* with FOIA from conducting a reasonable records search to responding within the time limits allowed by the FOIA statute, and opportunities for *Education* on FOIA to every employee. The CFPB continues to focus on developing innovative ways to further transparency and FOIA in the federal government.

Inquires about this report may be directed to the CFPB’s FOIA Office at (855) 444-FOIA (3642) or FOIA@cfpb.gov.

Table of contents

I.	Steps Taken to Apply the Presumption of Openness	4
II.	Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests	9
III.	Steps Taken to Increase Proactive Disclosures	11
IV.	Steps Taken to Greater Utilize Technology	13
V.	Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs	15
VI.	Use of FOIA’s Law Enforcement “Exclusions”	19
VII.	Spotlight on Success.....	20

I. Steps Taken to Apply the Presumption of Openness

A key mission of the CFPB is to make the financial products and services that consumers use more transparent. Naturally, transparency is at the core of our agenda and a key part of how the CFPB operates. The public deserves to know what the CFPB is doing and how we are doing it. Therefore, our commitment to openness starts with creating a high level of awareness on FOIA for each employee as well as focusing on effective communication with the public.

FOIA Training:

- 1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?*

Yes. The CFPB offers various opportunities for employees to attend educational events that promote further understanding of FOIA. The FOIA Office created a "FOIA 360" initiative that creates an agency culture focused on facilitating a high level of awareness about FOIA within the CFPB, compliance with the statutory requirements under FOIA, and continuing FOIA education for employees.

- 2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.*

The CFPB offered the following educational events during the past year:

- **New Employee Orientation.** The FOIA Office provides a brief overview on FOIA to all new employees on their first day at the CFPB. This overview includes guidance on the FOIA statute, employee responsibilities, conducting a reasonable search for responsive records, the preservation of records, proper labeling of records (deliberative, attorney/client privilege, Personally Identifiable Information), and the statutory timeframe for responding to requests. Over the past year, the FOIA Office has interacted with hundreds of new employees at the CFPB. Additionally, as a follow-up to orientation, the FOIA Office contacts new employees after 3-months and provides them with a "Focus on FOIA" reminder on a variety of FOIA matters. The "Focus on FOIA" reminder e-mail recaps the functions of the FOIA Office, the responsibilities of being a new employee in the federal government, and provides links to the FOIA Wiki page.
- **FOIA Contacts Quarterly Roundtables.** The FOIA Office collaborates with over 25 colleagues representing each division and several offices within the CFPB on a variety of matters from employee training to the identification of custodians that may have records responsive to a request. Over the past year, the FOIA Office hosted three roundtables that included discussions on searching for responsive records, requests pertaining to procurement matters, and the annual report.

- **Sunshine Week Lunch & Learn.** In commemoration of Open Government and the Freedom of Information Act, the FOIA Office hosted a Lunch & Learn on “Transparency in the Federal Government. “ Melanie Pustay, Director for the Office of Information Policy at the Department of Justice and Meredith Fuchs, the CFPB General Counsel, shared their insights on transparency with CFPB employees in the DC area and employees throughout the country by teleconference.
- **CFPB Spring Break.** The FOIA Office led a session focusing on transparency to undergraduate students from Princeton, Maryland, Carleton, and Harvard. This session introduced students to why transparency is important (sharing information, enable public participation, and government accountability), how transparency is achieved (Open Government, FOIA, and other disclosures), the results of transparency, and specific transparency initiatives at the CFPB (leadership calendar, Consumer Complaint Database, Cornell e-rulemaking, open source (Github), and other disclosures (procurement actions, reports, guidance, advisory groups, etc).
- **FOIA Training: Basic Overview.** The FOIA Office provided training on the basics of FOIA to various divisions and offices within the CFPB. This overview included who can make a FOIA request, employee responsibilities, what are and are not agency records, how to conduct a reasonable search for responsive records, proper labeling of records (deliberative, attorney/client privilege, PII), general considerations when sending e-mail communications, and general information on the FOIA exemptions.
- **FOIA Training: Contract Officer Representatives.** The FOIA Office provided training on the impact of FOIA on procurement matters to over 120 Contracting Officer Representatives (CORs) at the CFPB. This training included a general overview on FOIA, examples of procurement records sought in FOIA requests, overview of the FOIA process (search, review, and response), discussion on the CFPB’s transparency clause included in contracts, and information protected from disclosure under FOIA exemptions.
- **FOIA Training: Exemption 7 & 8.** The FOIA Office hosted a training session on FOIA exclusions, Exemption 7 and Exemption 8. This session was open to employees of the CFPB FOIA Office, the FOIA Contacts at the CFPB, and employees from other federal agencies. DOJ OIP personnel provided the instruction on these subject areas.
- **FOIA Intranet.** The CFPB developed an Intranet or “Wiki” that contains a significant amount of information on organizational structure, policies, guidance, and helpful links to additional resources. It is somewhat different than a traditional organizational Intranet because it is an open access tool that enables everyone to be an author of content and update content already posted. The FOIA Office’s Wiki includes a substantial amount of information about FOIA that is broken down into six main areas. The first main area generally discusses FOIA, the CFPB FOIA Policy, FOIA Office personnel, and a listing of contacts in each

division or office. The second area discusses our “FOIA 360” initiative that focuses on facilitating the highest level of FOIA awareness within the CFPB, compliance with the FOIA statute, and keeping employees informed about FOIA through continued education. The remaining areas include guidance to program offices and employees, initiatives of the FOIA Office to continually improve the process, frequently asked questions about FOIA or related matter, and a newsroom on FOIA or related topics.

3. *Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?*

Yes. Employees of the CFPB’s FOIA Office attended the Department of Justice’s Office of Information Policy (OIP) FOIA Fee Summit that was part of the Director’s Lecture Series. This summit was held on August 8, 2013 and focused on the FOIA’s fee and fee waiver provisions.

Additionally, employees of the FOIA Office are participants in OIP’s FOIA IT Working Group. As part of this group, the CFPB was part of discussions focusing on creating a culture of openness through technology (March 2013) and using technology to improve agency FOIA website (August 2013).

Employees of the FOIA Office participated in several roundtables sponsored by the OIP and the Office of Government Information Services (OGIS). These discussions included maximizing the administrative appeal process (November 2013), fee issues (April 2013), and providing records in electronic formats (July 2013).

In addition to the traditional government training opportunities and discussions, employees of the FOIA Office are active in the American Society of Access Professionals (ASAP) association. Employees attended ASAP’s 6th Annual National Training Conference (May 2013). This conference offered employees the opportunity to attend sessions on FOIA, the Privacy Act, Records Management, and several other related areas. Employees also attended ASAP’s training event titled “Privacy Training – Implementable Solutions” in December 2013. Sessions at this event included common routine uses, privacy system growing pains, transparency and privacy, and emerging hot topics.

4. *Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.*

100%.

5. *OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency’s plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.*

The CFPB is committed to making appropriate learning and development opportunities available impartially and equitably throughout an employee’s career based upon both

organizational and individual needs. Employees at the CFPB are encouraged to complete an Individual Development Plan (IDP) to document both short- and long-term developmental goals as well as plans to meet them. While IDPs are not mandatory, CFPB's IDP provides a framework to help employees identify opportunities to build on strengths and take on challenges. IDPs support all CFPB employees wishing to engage in learning and development opportunities. The FOIA Office has specific funding for training events and associated travel. Employees utilize IDPs to outline training opportunities over the upcoming year. The opportunities offered to employees of the FOIA Office include DOJ OIP roundtables, training, and other FOIA events. Additionally, employees are encouraged to take training on matters related to FOIA such as Privacy and Records Management. Training providers may include International Association of Privacy Professionals (IAPP), American Society of Access Professionals (ASAP), or others.

Outreach:

6. *Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.*

Yes. CFPB representatives presented two sessions at the 6th Annual National Training Conference (May 2013) sponsored by the American Society of Access Professionals (ASAP). The CFPB's FOIA Manager led a session focused on applying technology best-practices in FOIA administration and processing. This session included representatives from the Department of Justice and Department of Commerce engaging in a discussion around partnering with other agency stakeholders to implement the latest technology to further the processing of FOIA requests, leveraging eDiscovery tools to conduct the most accurate searches for records and timely collection of records, successfully implementing an eFOIA solution, and sharing information with the public as well as internal agency stakeholders. In addition to this technology session, the CFPB's FOIA Manager was joined by the CFPB's Chief Privacy Officer and Records Officer in another session focusing on the importance of records management at the CFPB. This session discussed building a cohesive team dedicated to compliance with the Privacy Act, FOIA, and Federal Records Act; creating a positive and collaborative culture; and designing a successful Records Management Office at the CFPB.

Discretionary Disclosures:

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

7. *Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.*

The CFPB FOIA Office routinely conducts an analysis to determine if any of the responsive information to a request may be released as a matter of discretion. Additionally, the FOIA Office chairs a FOIA Awareness Group at the CFPB that meets on a weekly basis to discuss FOIA requests, discretionary disclosures, and other FOIA-related matters.

8. *During the reporting period did your agency make any discretionary releases of otherwise exempt information?*

Yes.

9. *What exemptions would have covered the information that was released as a matter of discretion?*

FOIA Exemption (b)(5)

10. *Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.*

The CFPB has determined that various types of information may be released as a matter of discretion that was deliberative in nature. In general terms, this information included draft documents, agendas, and more.

11. *If your agency was not able to make any discretionary releases of information, please explain why.*

This question is not applicable to the CFPB at this time.

Other Initiatives:

12. *Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.*

The CFPB previously reported under the Department of the Treasury regarding FOIA matters for Fiscal Years 2010-2013. Since the CFPB is now independent of Treasury, the CFPB intends on publishing quarterly FOIA reports during Fiscal Year 2014.

13. *Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.*

The CFPB strives to lead by example by being transparent with respect to its own activities. The CFPB utilizes its website as the primary vehicle to share information on the operations and decisions the CFPB undertakes every day. These initiatives include:

Leadership Calendars. The CFPB remains committed to keeping consumers informed about the daily work of the Bureau's senior leadership by sharing their

calendars. Presently, the CFPB posts the monthly calendars of Director Richard Cordray and Deputy Director Steven Antonakes to the [website](#). The calendars of past leaders Elizabeth Warren and Raj Date are archived on the [website](#) for the public to view as well.

Budget Updates. The CFPB has published regular quarterly budget updates on its [website](#), including financial reports for each quarter of the fiscal year, three fiscal years' worth of funding requests and acknowledgements, and information about the CFPB's Civil Penalty Fund that was created under the Dodd-Frank Act.

General Reports. The CFPB [published](#) the Strategic Plan, Budget, and Performance Plan and Report for Fiscal Year 2014 Fair Debt Collection Practices Act, OMWI, and the No FEAR Act. Additionally, the CFPB published information related to senior designations for financial advisors, a white paper on payday loans and deposit advance products, recommendations for supporting the financial education and capability of American youth, a Request for Information regarding the affordability of student loans, feedback from the financial education field, and a study of overdraft programs.

Guidance Updates. The CFPB periodically provides [updates](#) on regulations and guidance. Regulatory implementation information is available to help entities comply with the Dodd-Frank Act mortgage reforms and Bureau rules, which are delivered through downloadable compliance guides and videos. The Office of Administrative Adjudication (OAA) posts rules of practice, notices, and dockets for the public to view regarding charges and actions initiated by the CFPB based on alleged violation of federal statutes and regulations.

II. Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

Being a new federal agency, the CFPB was able to review other federal agency FOIA programs in order to allocate the appropriate level of resources to efficiently process requests and to implement best practices to effectively create a strong FOIA program.

Personnel:

During Sunshine Week 2012, OPM announced the creation of a new job series entitled the Government Information Series to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. *Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?*

Yes.

2. *If not, what proportion of personnel has been converted to the new job series?*

This question is not applicable to the CFPB at this time.

3. *If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?*

This question is not applicable to the CFPB at this time.

Processing Procedures:

4. *For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

Yes. The CFPB adjudicated requests for expedited processing within an average of less than one day.

5. *Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.*

No. The CFPB is a new federal agency and receives only a minimal amount of consultations and/or referrals. Consultations and referrals are processed in the same manner as a new FOIA request, which is normally within the FOIA statutory timeframe.

Requester Services:

6. *Do you use e-mail or other electronic means to communicate with requesters when feasible?*

Yes. Unless the requester does not provide an e-mail address or telephone number, the standard method to communicate with requesters is through e-mail or telephone. Likewise, responses are sent through e-mail or by other electronic means (e.g. Compact Disk).

7. *Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?*

Yes. OGIS contact information is included in appellate determination responses or offered to the requester when the FOIA Office is unable to resolve an issue with the requester.

8. *Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.*

The CFPB is one of the newest agencies in the federal government and the FOIA Office has only been operational for a short period of time. With this in mind, the FOIA Office has created policies, processes, and procedures that are relatively still new. However, the FOIA Office remains committed to apply the most recent best-practices associated with FOIA and discover more innovative ways to continually improve their processes to better serve the public.

III. Steps Taken to Increase Proactive Disclosures

The CFPB strives to lead by example by being transparent with respect to its own activities. The CFPB utilizes its website as the primary vehicle to share information on the operations and decisions the CFPB undertakes every day. These initiatives include posting the **Leadership Calendars** of its Director and Deputy Director; **budget** updates; **general** reports; **guidance** updates; and much more. Additionally, the FOIA Office has established requirements for an interactive FOIA experience for the public. This resource would provide requesters the ability to electronically submit requests on the CFPB's website, check the status of their request, electronically receive their response, provide educational information, and review information in an online FOIA Library (Reading Room). The CFPB is in the process of operationalizing this resource to the public.

Posting Material:

1. *Do your FOIA professionals have a system in place to identify records for proactive disclosures?*

No.

2. *If so, describe the system that is in place.*

This question is not applicable to the CFPB at this time.

3. *Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.*

As previously stated, the CFPB utilizes its **website** as the primary vehicle to share information on the operations and decisions the CFPB undertakes every day. In addition to this information, the CFPB posted a **strategic plan** that focuses on preventing financial harm to consumers while promoting good practices that benefit them, empowering consumers to live better financial lives, providing data-driven analysis of consumer finance markets, and advancing the CFPB's performance by maximizing resource

productivity. The CFPB relies on stakeholders for advice and insight from various advisory groups to include: the Consumer Advisory Board, Community Bank Advisory Council, Credit Union Advisory Council, and Academic Research Council. The CFPB publishes these groups' charters, membership, meeting details, and contact information for the public to view. A new initiative provided information on doing business with the CFPB by creating contract opportunities for women, minorities, and small businesses. The associated website includes information on getting started, a direct e-mail link to the CFPB's Director of Procurement, a list of current needs at the CFPB, specific metrics to small businesses, and inventories of service contracts. The CFPB's Office of Consumer Response began accepting consumer complaints on July 21, 2011. Information about consumer complaints is available to the public through the CFPB's public Consumer Complaint Database. Launched in June 2012, the database was initially populated with credit card complaints received on or after June 1, 2012 and has been expanded over time to include complaints about other products handled by the CFPB. This database allows the public to view data by product and download, sort, or visualize the data for over 176,000 complaints (as of June 2013). The rulemaking authority for the Home Mortgage Disclosure Act (HMDA) was transferred to the CFPB under the Dodd-Frank Act. The CFPB provides general information about HMDA, facts and figures, downloadable data sets, and a public API for the public to develop their own tools.

Making Posted Material More Useful:

4. *Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?*

Yes. The CFPB deployed their initial public website in February 2011 that reaches consumers, advocates, industry members, policymakers, and a wide range of other stakeholders. Over the last 2+ years, the CFPB has made various additions as well as updates. In 2014, the CFPB plans to "refresh" the CFPB public website in order to offer a better experience.

5. *If so, provide examples of such improvements.*

This question is not applicable to the CFPB at this time, see answer to previous question.

6. *Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?*

Yes. The CFPB routinely blogs regarding the latest news, events, educational update, and other information. Visitors to the blogs are able to visit archived blogs (by month and year) and category (servicemembers, consumer response, payday loans, etc).

Additionally, the CFPB posts important announcements and information to its newsroom. The newsroom provides the ability to filter the content by type of

communication (Op-Ed, testimony, speech, press release) or topic (mortgage, credit cards, enforcement, students).

The CFPB also utilizes social media such as [Twitter](#), [Facebook](#), and [LinkedIn](#) to help the public to stay informed about how the CFPB is working for them.

7. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.*

Yes. The CFPB is still building an interactive FOIA experience and Open Government initiative(s) to share information with the public. These projects are in a planning phase and resources from across the CFPB will be required to implement them.

8. *Describe any other steps taken to increase proactive disclosures at your agency.*

The CFPB has not taken additional steps than already discussed in this report.

IV. Steps Taken to Greater Utilize Technology

The CFPB is committed to transparency and believe that technology and innovation are fundamental to achieving mission of protecting consumers. The CFPB has employed technology in two specific areas related to the FOIA process: in the overall management of requests and conducting a reasonable search for records responsive to those requests. In the near future, the CFPB intends to implement an interactive FOIA experience for the public.

Online tracking of FOIA requests:

1. *Can a FOIA requester track the status of his/her request electronically?*

No. However, requesters may contact our FOIA Service Center via toll-free telephone number or via e-mail (FOIA@cfpb.gov) to inquire about the status of their request.

2. *If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?*

This question is not applicable to the CFPB at this time.

3. *Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.*

This question is not applicable to the CFPB at this time.

- 4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?*

Yes. While the CFPB does not have a method to track requests online, the CFPB's eFOIA system calculates the estimated date of completion based on the track of the request (e.g. expedited, simple, or complex). Requesters may contact our FOIA Service Center via toll-free telephone number or via e-mail (FOIA@cfpb.gov) to inquire about the estimated date of completion.

- 5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.*

Yes. The FOIA Office has established requirements for an interactive FOIA experience for the public. This resource would provide requesters the ability to electronically submit requests on the CFPB's website, check the status of their request, electronically receive their response, provide educational information, and review information in an online FOIA Library (Reading Room). The CFPB is in the process of operationalizing this resource to the public.

Use of technology to facilitate processing of requests:

- 6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?*

Yes. The CFPB utilizes advanced technology to search for responsive records and share documents internal to the CFPB.

- 7. If so, describe the technological improvements being made.*

The CFPB utilizes a variety of technology to have a compliant, efficient, and effective FOIA program. The CFPB implemented Clearwell, an eDiscovery system, to assist with matters primarily in the areas of Enforcement, Legal, and FOIA. Specifically, the Clearwell system is utilized in the FOIA area to facilitate a reasonable search for records responsive to requests. The FOIA Office's Clearwell search process reduces search time by automatically collecting employees' e-mail box(es) and conducting a search for responsive records based on key terms, subjects, or phrases. This allows the FOIA Office to maintain a complete and accurate administrative log for each request. The FOIA Office can create reports about the search including specific date(s)/time(s) the search was conducted, the custodian(s) searched, specific keywords/phrases/filters used, and document types or item counts. Since the CFPB has a disbursed workforce throughout the United States, the FOIA Office tested the deployment of an IronKey device to collect records from custodians that may not have access to the CFPB network. The capability of the Ironkey device, which is an encrypted flash drive, enables the FOIA Office to collect records from remote-offline locations within three days and import them into the eDiscovery system for review. Lastly, Clearwell enables the FOIA Office to more effectively communicate with requesters on narrowing requests that are broad by conducting "real time" searches based on keywords provided by or negotiated with the

requester. For example, once an e-mail box is collected, the FOIA Analyst can insert specific keywords into the search mechanism and determine the amount of response “items” located in the e-mail box(es).

The FOIA Office utilizes a Sharepoint Portal to facilitate internal coordination and awareness of matters related to FOIA. This Portal also enables the FOIA Office to coordinate the timely collection of records responsive to requests by granting (and then removing) access for employees to upload records. Additionally, the Portal allows the FOIA Office to share documents easily with internal stakeholders for consultation purposes such as legal opinions.

8. *Are there additional technological tools that would be helpful to achieving further efficiencies in your agency’s FOIA program?*

The CFPB is in the process of operationalizing an interactive FOIA experience for the public.

V. Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The CFPB understands the importance of responding to requests within the timelines outlined in the FOIA statute. Additionally, the CFPB focuses on responding to appeals within the same amount of time (20 working days) as a request to provide requesters with a determination in a timely manner. The FOIA Office continues to look for ways to streamline the process, effectively communicate with requesters, and leverage the most innovative techniques to provide a timely response to the public.

Simple Track Requests:

1. Section VII.A of your agency’s Annual FOIA Report, entitled “FOIA Requests – Response Time for All Processed Requests,” includes figures that show your agency’s average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for “simple” requests, which are those requests that are placed in the agency’s fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

- a. *Does your agency utilize a separate track for simple requests?*

Yes. The CFPB established three tracks to process FOIA requests (Expedited, Simple, and Complex).

- b. *If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?*

Yes. The CFPB average for processing requests in the simple track was approximately 8 days.

- c. *If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?*

This question is not applicable to the CFPB at this time.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. *If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?*

Yes. During Fiscal Year 2012, the CFPB's backlog was 16. In comparison, the CFPB's backlog at the end of Fiscal Year 2013 was 2. This was a decrease of 88%.

- b. *If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?*

Yes. During Fiscal Year 2012, the CFPB's backlog was 5. In comparison, the CFPB closed all administrative appeals at the end of Fiscal Year 2013.

Ten Oldest Requests

- c. *In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?*

Yes. The CFPB closed all the requests that were pending at the end of Fiscal Year 2012.

- d. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012*

Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

This question is not applicable to the CFPB at this time.

Ten Oldest Appeals

- e. *In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?*

Yes. The CFPB closed all the appeals that were pending at the end of Fiscal Year 2012.

- f. *If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.*

This question is not applicable to the CFPB at this time.

Ten Oldest Consultations

- g. *In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?*

The CFPB did not have any pending consultations at the end of Fiscal Year 2012.

- h. *If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.*

This question is not applicable to the CFPB at this time.

Reasons for Any Backlogs:

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. *Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?*

This question is not applicable to the CFPB at this time.

- b. *Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?*

This question is not applicable to the CFPB at this time.

- c. *Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?*

This question is not applicable to the CFPB at this time.

- d. *What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?*

This question is not applicable to the CFPB at this time.

“Ten oldest” Not Closed

- e. *Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.*

This question is not applicable to the CFPB at this time.

- f. *If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.*

This question is not applicable to the CFPB at this time.

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. *If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.*

This question is not applicable to the CFPB at this time.

5. *If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.*

This question is not applicable to the CFPB at this time.

Interim Responses:

OIP has issued **guidance** encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. *Does your agency have a system in place to provide interim responses to requesters when appropriate?*

Yes. In addition to contacting the requester in the event a response may exceed the statutory timeframe, CFPB FOIA Analysts determine if an interim response is feasible and appropriate.

7. *If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.*

None. The requests pending at the end of Fiscal Year 2013 were closed within the first two weeks of the Fiscal Year 2014.

VI. Use of FOIA's Law Enforcement "Exclusions"

The CFPB does not use any of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3).

1. *Did your agency invoke a statutory exclusion during Fiscal Year 2013?*

No.

2. *If so, what was the total number of times exclusions were invoked?*

This question is not applicable to the CFPB at this time.

VII. Spotlight on Success

The CFPB FOIA Office created the “**FOIA 360**” initiative to facilitate the highest level of *Awareness* on FOIA throughout the entire CFPB, *Compliance* with FOIA in conducting a reasonable records search and responding within the time limits allowed by the FOIA statute, and opportunities for *Education* on FOIA to every employee at the CFPB. This initiative includes a two-part **Awareness** element that provides a high-level understanding of FOIA for CFPB employees and integrates FOIA in various areas where there may be an impact. For example, the FOIA Office is a member of the CFPB’s Data Council that is a consultative body that synchronizes data assets, policies, tools, standards, and analytical efforts both internally and externally to the CFPB. The FOIA Office also participates in the Data Intake Group, which is a sub-group of the Data Council that serves as an advisory body to the CFPB’s Chief Information Officer and determines potential concerns associated with a dataset prior to the intake of data into the CFPB. Participation in these types of groups enables the FOIA Office to be included in operations and decisions that may have an impact on FOIA (e.g. future requests, custodians of potentially responsive records) and provides the opportunity to share information on FOIA that allows employees to seek guidance in the future.

Another element of this initiative is **Compliance** with the FOIA statutory requirements and the CFPB regulation, including the CFPB’s regulation titled “Disclosure of Records and Information” (12 CFR Part 1070). This regulation addresses FOIA processing, from effectively and efficiently conducting a reasonable search for records responsive to the request through making every effort to respond within the statutory timeframes outlined in the FOIA. Additionally, the CFPB posted the **final rule** regarding the procedures for the public to obtain information from the CFPB under the FOIA, Privacy Act, and in legal proceedings. This rule also establishes the CFPB’s treatment of confidential information.



The final element of this initiative is **Education**, which provides guidance and other information related to FOIA to all employees at the CFPB. As previously stated, this starts with the brief FOIA overview given to all new employees on their first day at the CFPB and the “Focus on FOIA” e-mail that is subsequently sent to those new employees at their three-month anniversary at the CFPB. In addition to these efforts centering on new employees, the FOIA Office created multiple brochures to share with employees. One brochure provides an overview on FOIA that includes information on the statutory requirements of FOIA, employee responsibilities, how to conduct a reasonable records search, the statutory timeframes allowed under FOIA, the importance of Records Management in the FOIA process, top things to remember, and contact information for the FOIA Office. Another brochure provides guidance on the use of electronic calendars (e.g. Outlook) that includes information about why calendars are important, why the CFPB posts leadership calendars to its public website, a sample calendar, recommended appointment format, and some recommended DOs and DON’Ts. The last brochure provides information on electronic mail (e-mail) that includes when e-mail is a record under FOIA, employee responsibilities and risks, the process if an employee’s e-mail is requested under FOIA, and the impact of Records Management on e-mail.